Office of the National Coordinator for Health IT, Health IT Policy Committee

Dr. Karen DeSalvo, Chairwoman

Meeting Date and Time: Tuesday, March 11, 2014, 9:00 AM to 3:30 PM EDT

Name and Address of Submitting Organization:

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Good afternoon. My name is Scott Brown, and I am the President and Co-Founder of MyDirectives.com. Many of the members of the Committee already know us and what we do – our focus is purely on empowering consumers and ensuring that their voices are heard and their medical treatment wishes honored, even when they cannot communicate with providers and caregivers.

We would like to comment today on the Meaningful Use Work Group's recommendations with respect to advance directives. While we applaud the Work Group's recommendation to move advance directives from menu to core for Eligible Hospitals and its inclusion as a menu item for Eligible Professionals, we would strongly urge the Work Group, the HIT Policy Committee, ONC, and CMS to finally take advance directives into the 21st century by leaving behind the "upload and store a document" functionality and require certified EHR technology to link to a live document when possible. It's a very simple change: remove the "or" in the "and/or" requirement for CEHRT.

Furthermore, we urge you to broaden the requirement to include all patient 18 and over, or at the very least, to include all Medicare beneficiaries.

With respect to leaving behind the decades old paper-based system in favor of linking to advance directives, we would submit the following:

- In its August 2008 report to Congress on Advance Directives and Advance Care Planning, the Department of Health and Human Services clearly stated that one of the *major* failings of advance directives for the past 40 years has been a focus on form over substance. The current proposed recommendation perpetuates a system that decades of research has revealed – with very few exceptions – to be a failure. You have the power and the opportunity to fix that.
- During the "Care Planning Virtual Hearing" held by the HITPC Certification/Adoption Workgroup on September 23, 2013, and during the follow-up meeting held on September 27, *multiple* participants – Brian Yeaman (Coordinated Care Oklahoma), Patricia Bomba (Excellus BlueCross BlueShield), Mark Savage (National Partnership for Women and Families), Elizabeth Belmont (MainHealth), Amy Berman, RN (The John A. Hartford Foundation), and others – called for a more robust solution that involves the use of interoperability and structured data with real-time updates. *Paper documents do not allow for any of this* and the recommendation as currently drafted perpetuates that system.
- The recommendation as currently drafted supports technology that has existed and been deployed for more than a decade (i.e., scanning and uploading a paper document), with very poor results. It does not raise the bar at all with respect to the "meaningful use" of electronic health records.
- As demonstrated to the HIT Standards Committee in a meeting held on January 24, 2014, **and this is critical**, mature technology *already exists* to support the embedding of a dynamic, persistent and highly secure link into an EHR using well-accepted standards and the C-CDA. Any who still believes or claims the contrary is simply misinformed and incorrect.

On the age requirement, we would like to bring to the Committee's attention several points:

- First, the 2008 Report to Congress on Advance Directives, as well as decades of peer reviewed, published research, confirm that one of the reasons advance directives have failed is the system's focus primarily on people who are older, frail and chronically/terminally ill. This is the perfect opportunity to address that.
- Furthermore, during the September 23rd "Care Planning Virtual Hearing," and during the follow-up meeting held on September 27, *multiple* participants – Mark Savage (National Partnership for Women and Families), Brian Yeaman (Coordinated Care Oklahoma), Patricia Bomba, MD, FACP (VP and Medical Director, Geriatrics – Excellus BlueCross BlueShield), Paul Malley, MA (President, Aging with Dignity), and others – called for the criteria to include everyone 18 and over. We urge you to listen to the experts that you called to testify.
- Finally, if reducing the applicable age to 18 really is "just too hard," and if the Committee feels like it is constrained by the objective to limit the requirement to situations where Medicare reimbursement can be used as a carrot or a stick, then we believe the requirement should at least cover all Medicare beneficiaries, and not just those who are 65 and over.

Vice Chairman Paul Tang stated at the opening of this meeting, "Patient engagement is so important . . . Care coordination is one of the most important things we can do." If members of the Committee really believe that, then we urge you to begin placing as much emphasis on recording and sharing the consumer's – the patient's – most up-to-date values, wishes and objectives for treatment as you are placing on recording and sharing things like blood pressure, glucose levels and weight.

Thank you again to the members of the Meaningful Use Work Group for their excellent work on the Meaningful Use Stage 3 recommendations; thank you to the Committee for giving us the opportunity to comment; and a special thank you to Dr. DeSalvo for recognizing that MyDirectives.com is just one example of a viable solution for fulfilling an improved certification requirement. We look forward to working with ONC and CMS to formulate a rule for Meaningful Use Stage 3 that finally, truly puts the consumer patient's voice, objectives and wishes at the center of healthcare.